

## REMARKS

The Examiner has required election from among eight purportedly distinct species, namely species a)-h), each of which depend from generic Claim 24. In response, Applicant elects identified species h), which the Examiner identified as being drawn to photovoltaic materials, with traverse. Applicant believes, however, that the species identified by the Examiner as species e)-h) all belong within the same species, and should be simultaneously examined by the Examiner at this time. As will be explained below, the identified species are all drawn to photovoltaic cells, and therefore are not patentably distinct, and should all be examined simultaneously.

Specifically, the species identified by the Examiner include e) drawn to silicon, f) drawn to germanium doped with p-type and n-type impurities, g) drawn to P-N junctions of semiconductors, and h) drawn to photovoltaic materials. In fact, species e-g identified by the Examiner, including silicon, doped germanium, and P-N junctions of semiconductors, are all photovoltaic materials. As explained on Page 11 of the present application, photovoltaic materials are materials that “upon exposure to sunlight produce voltage, and, in turn, repel insects and microbial activity.” (P. 11, Lines 7-8). Thus, Applicant contends that, as each of these materials are functionally the same, they are not patentably distinct from each other, and should be examined simultaneously. Accordingly, Applicant respectfully requests examination of the identified species e)-g), along with the already elected identified species h).

In furtherance of that election, Applicant has amended Claim 18 to specify that the beneficial material associated with the substrate comprises a photovoltaic compound, and Claim 24 to specifically list only the photovoltaic materials. Additionally, Applicant has deleted claims 19-23 as being drawn to non-elected embodiments, and withdrawn Claims 1-17 and 24-33.

The Examiner has noted the use of the trademarks “Nasicon” and Nafion” within the specification, and requested that those uses be noted with capitalized words, and be accompanied with the generic terminology for those elements. Applicant has amended the specification above so as to address the Examiner’s concerns.

As to the form of the claims, the Examiner has rejected Claims 18-24 under 35 U.S.C. §112, second paragraph, based on the contention that they are indefinite as written. Claim 18 specifies that the substrate is “associated with” a wound region, and the beneficial material of the invention is “associated with” the substrate. The Examiner has stated that use of the term “associated with” fails to adequately explain the nature of the association. Applicant respectfully traverses the Examiner’s rejection. The phrase “associated with” is deliberately used in Claim 18 in order to encompass any number of known means for placing the substrate adjacent to or even within a wound, and for incorporating a beneficial agent next to, on, or into the substrate. This meaning is clearly stated within the specification at several points. For example, Page 12 of the specification states “[v]arious different manners in which to apply beneficial material . . . .” including coating it on a device via spraying, dipping, painting, etc., introducing it into a fluid in granulated form, and introducing it directly into the substrate material. (Page 12, lines 1-9). Similarly, the device can be “associated with” a wound by any known conventional method, such as, for example, positioning it “to cover a wound, [so that] the beneficial material is in close proximity to a wound.” (Page 13, Lines 11-12).

From the above, it is clear that the terms “associated with” are very clear to one of ordinary skill in the art as meaning any number of known methods for joining two or more substances together. The specification highlights several examples, but Claim 18 is intended to incorporate any and all conventional options, and as such is deliberately nonspecific. Such

conventional language is well known in the art, and would clearly allow one of ordinary skill in the art to make and use the present invention as claimed and described. Therefore, Applicant respectfully submits that the claim language of Claims 18-24 is clear as written.

The Examiner has additionally rejected Claim 21 under 35 U.S.C. §112, as being indefinite for including tradenames within the claim. Applicant submits that the Examiner's rejection is now moot in light of the above deletions to the claims.

Lastly, the Examiner has rejection Claim 24 under 35 U.S.C. §112, as including a number of indefinite terms. Applicant has deleted the indefinite terms, as those terms are already adequately described within the specification as being exemplary members of the described material classifications within Claim 24.

Substantively, the Examiner has rejected Claims 18, 19 and 22 under 35 U.S.C. §102(b), based on the contention that they are anticipated by U.S. patent No. 4,563,485, issued to Fox, Jr. at al (Fox '485). Additionally, the Examiner has rejected Claims 18-24 under 35 U.S.C. §102(e), as being anticipated by U.S. Patent no. 6,333,093, issued to Burrell et al (Burrell '093).

Applicant respectfully traverses the Examiner's rejections. None of the cited references teach, disclose or claim a photovoltaic material associated with the substrate, as claimed in Claim 18.

Specifically, photovoltaic materials, as described in the specification, are materials that produce a voltage upon exposure to sunlight, repelling insects and the like. Neither Fox '485 nor Burrell '093 shows the use of a photovoltaic material at all. In fact, although both Fox '485 and Burrell '093 disclose antimicrobial materials, they do not even contemplate the use of photovoltaic materials. Therefore, the presently amended Claim 18 should now be in allowable condition as amended.

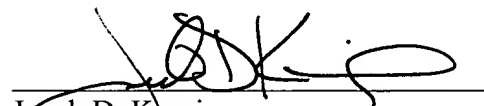
The only remaining claim in the application, namely Claim 24, depends from the now allowable Claim 18. Therefore, Applicant respectfully requests reconsideration and passage to allowance of Claims 18 and 24.

Should anything further be required, a telephone call to the undersigned at (312) 226-1818 is respectfully requested.

Respectfully submitted,

FACTOR & PARTNERS, LLC

Dated: May 27, 2003


  
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One of Applicant's Attorneys

#### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Patent Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 27, 2003.

Jacob D. Koering

Name of Applicant, assignee, applicant's attorney or Registered Representative

  
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